

JAN 04 2005

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Julie Straub, David Altreuter, Howard Bernstein, Donald E. Chickering, III,  
Sarwat Khattak, and Greg Randall

Serial No: 10/053,929

Art Unit: 1617

Filed: January 22, 2002

Examiner: Edward J. Webman

For: *POROUS DRUG MATRICES AND METHODS OF MANUFACTURE THEREOF*

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE  
PATENTING REJECTION OVER AN ISSUED PATENT

Sir:

Petitioner, Acusphere, Inc., is the owner of the entire interest in the above-identified application and U.S. Patent No. 6,395,300, issued May 28, 2002, as evidenced by the accompanying Statements Under 37 C.F.R. § 3.73(b). Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154-156 and 173 as shortened by any terminal disclaimer filed prior to the grant of U.S. Patent No. 6,395,300, or any continuation thereof under 37 C.F.R. § 1.53(b). Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and U. S. Patent No. 6,395,300 are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full

U.S.S.N. 10/053,929  
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statutory term as defined in 35 U.S.C. §§ 154-156 and 173 of U. S. Patent No. 6,395,300, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that the granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

The undersigned (whose title is supplied below) is empowered to act on behalf of  
Acusphere, Inc.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

ACUSPHERE, INC.

By: Howard Bernstein

Name: Howard Bernstein

Title: SG VP

Date: 1-4-2005

PTO/SB/08 (09-04)

Approved for use through 07/31/2008. OMB 0851-0031  
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**STATEMENT UNDER 37 CFR 3.73(b)**Applicant/Patent Owner: Julie Straub, David Altrout, Howard Bernstein,  
Donald E. Chickering, III, Sarwat Khattak, and Greg RandallApplication No./Patent No.: 10/053,929 Filed/Issue Date: January 22, 2002Entitled: **POROUS DRUG MATRICES AND METHODS OF MANUFACTURE THEREOF**Acusphere, Inc., a Corporation  
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest.  
The extent (by percentage) of its ownership interest is \_\_\_\_\_ %

In the patent application/patent identified above by virtue of either:

A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 012874, Frame 0351, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

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The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Howard Bernstein  
Signature  
Howard Bernstein  
Printed or Typed Name  
 Sr. VP   
Title

1-9-2004  
Date  
607-648-8800  
Telephone Number

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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### STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Julie Straub, Howard Bernstein, Donald E. Chickering III, Sarwat Khattak, and Glee Randall

Application No./Patent No.: 09/433,486 / U.S. Pat. 4,395,300 Filed/Issue Date: November 4, 1999 / Issued May 28, 2002

Entitled: Porous Drug Matrices and Methods of Manufacture Thereof

Acusphere, Inc., a Corporation

(Name of Assignee)

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest.  
The extent (by, percentage) of its ownership interest is \_\_\_\_\_ %

in the patent application/patent identified above by virtue of either:

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[ ] Additional documents in the chain of title are listed on a supplemental sheet.

- [ ] Copies of assignments or other documents in the chain of title are attached.

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The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

7-30-01

Date

Howard Bernstein

Typed or printed name

Donald Bernstein

Signature

Senior Vice President

Title

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